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Weed, Samuel Richards

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Former and Present Day Methods of Adjustment

AN ADDRESS

Delivered before the One hundred and Fourth Meeting

OF

The Insurance Society of New York

ON

Tuesday, February 16th, 1915

BY

Mr. Samuel R. Weed

Of Weed & Kennedy

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14 Feb 1916 MS

Former and Present Day Methods of Adjustment.

The theme of this address was chosen for me or else I would have changed its form and described the subject as the "difference in ancient and modern adjusting practices." When I was a boy going about the streets in New York, there used to be a foolish sort of conundrum on everybody's lips:—"What is the difference between a ride in an East Broadway omnibus and a Broadway silk hat?" The answer was "$4.94," the ride costing 6 cents and the hat $5.00. I wish it were possible to tell you the difference between the former methods and present methods of adjustment in an equally conclusive way in which the answer to the conundrum was given. What I shall say on this subject applies to New York and vicinity, and is not intended as a reflection upon the present methods of any other locality.

You will readily believe the differences are radical and yet there are some old fogies who still believe that the changes in the last thirty (30) years in various underwriting phases, are not all improvements upon the old methods. "Ephraim joined to his idols" was the forerunner of those old fossils. The remark that the changes in underwriting are not all improvements applies I presume to adjustments but after making due allowance for present imperfections, it can be justly said that the methods now employed, have met with the approval of every company concerned and brought about desirable results which were literally impossible under the old system. Yet I hear often there are no more "adjustments" but only "settlements." In some other cities our plans have been partially followed, and while the New York system is not wholly an original device,—it is "coöperation" nearly perfected and the fruit of experiments more or less imperfect tried elsewhere.

The germ of the present New York system was really born in Cincinnati where a corporation was formed by local companies for the adjustment of losses, under the name of the Insurance Adjustment Co. of Cincinnati, and was organized in April 1875. The idea apparently came from the Secretary of the Amazon Insurance Co. Its first superintendent and secretary was Mr.

John I. Covington, who was Secretary of the Globe Insurance Co. of Cincinnati and who later came to this city to take charge of the insurance department of the American Cotton Oil Co. It seems a coincidence that two of the gentlemen who practically began their insurance careers with the adjustment company in Cincinnati are now in this city and very much in evidence in the adjustment question. I refer to Mr. Willis O. Robb and Mr. W. N. Bament, General Adjuster of the Home Insurance Co. We, of course, received the benefit of Mr. Robb's early experience in Cincinnati when he came to New York, although he had passed from the general adjustment business into service of the Norwich Union prior to becoming the Secretary of the Loss Committee.

At the time of its organization, there were twenty-two (22) stock companies and five (5) mutuals, doing business in the city of Cincinnati, most of them now on the retired list. Mr. Bament writes me a brief account of it and says: "The old adjustment company was laid to rest in the insurance cemetery, I think, in the year 1886."

The conditions in this city prior to 1876 were very unsatisfactory both to companies and underwriters. They all recognized the evils and sought to remedy them by individual action. There was no systematic coöperation in handling losses. The process was simplicity itself. Far back in the fifties when a loss was reported in this city, the office interested would send an outdoor solicitor or inspector to take a look at the damage and report to his chief. If it was an important loss then the Secretary or President would inspect it. When several of these officials met on the ground, some or all of them would usually agree on some individual but they never named an adjuster to "take exclusive charge" of the loss. This plan continued with some variations through the sixties but by 1872 some companies organized loss departments, growing out of the lessons of the Chicago conflagration. Coöperation increased but it was never formally adopted by all offices. Each company was still its own boss in adjusting losses and consequently it made only a part of the general management of each office. The adjusters employed by the companies under this independent "go as you please" plan, sometimes were able by their own strength to obtain more coöperation than in former years, but it was a plant of slow growth and was attended by many drawbacks. There is no doubt according to the gossip of the period, that many companies were deceived by the men they employed. The salvage operations at that date offered great opportunities for graft and there was a general suspicion that it

was extensively practiced. Then about 1879, private parties organized salvage companies for handling damaged merchandise whose facilities and expert knowledge in reconditioning such goods were of great service and value to the companies. While recognizing the possibility that the companies were overcharged and sometimes cheated in achieving results, the sufferers were not discontented and generally well satisfied because results were more beneficial than under the former methods. But the growth of the evil became more and more a burden and something of a scandal. The end of the salvage abuse came when a large majority of the companies took the matter in their own hands and organized a salvage company which is still in existence. The company rented a warehouse—employed their own experts and began to take the damaged goods into their possession at the request of the companies and dispose of it on business principles to the best interest of the underwriters. This movement was all in the line of coöperation. In 1901 the New York Board adopted a resolution providing for the organization of a committee on losses and adjustments. Many doubts were expressed regarding its feasibility but the work proceeded with the general coöperation of the companies. Rules were adopted by the Committee, most of which are still in force. The Committee has made very few modifications and additions to the earlier rules. Under this authority, the Committee were and are still authorized to take charge of all losses where there are three or more companies interested and if there are less than three companies, the Committee may still take charge of any loss at the request of any company concerned. The Committee has a list of approved adjusters who are elected by the concurrent vote of eight members not however until after notice of application has been sent the rounds of all the companies and answers as to honesty, competency and past conduct or practices requested. After their election the secretary of the Committee assigns the adjusters on each loss—seldom less than two, or more than three. The adjusters are required to keep in close touch with the secretary and no contracts are given out for salvage, legal service or accountant work without the Secretary's consent. The office is well organized and the system has been found in practice to work well. The adjusters are paid through the Committee and the bills must be approved by the Secretary or in case of dispute, submitted to the entire Committee for approval. The earliest effect of the transfer of adjustments to the Committee, was to reduce the expenses. Many a company found in comparison with old style bills for simple adjustments that

whereas they formerly paid $25.00 for a common place adjustment, their Committee bills were often less than $2.50 and in some instances half of that sum. The salvage operations are now systemized in the interest of economy and better still, the experience of salvage experts in the appraisement of losses tends to produce the most satisfactory results. The second effect was the cessation of all suspicion of graft. There may have been criticism in particular cases but the instances are very rare and wherever the salvage results are questioned, the adjusters may investigate the details. This matter is not wholly within the control of the adjusters but there is a harmonious relation between the operation of the Salvage Company and the Loss Committee which opens the door to every source of information which can throw any light upon the loss or salvage. The Committee has passed upon nearly 25,000 losses since its organization and settlements up to the first of this year are $86,350,466 and with less friction and less expense than was ever known in former years.

One of the most important results under the new system is the accumulation of a large mass of historical data relative to fires reported to the Committee since its organization. These records have grown to be of immense size and occupy most of the wall space in our offices. They contain the story of hundreds of suspicious fires in the past and of the operations of public adjusters and claimants. These records are simply invaluable for future reference. It is possible now to keep track of the fires which are reported both as to location and name. With the coöperation of companies and outside sources, the Loss Committee is now equipped to follow up all suspicious cases and especially to advise the companies whether prior losses were honest and legitimate. The extent of the usefulness of the information gathered in the present adjustment method, is one of the most important features in the whole system. Nothing like it in the old system existed although private detectives were and still are paid for the general purpose of investigating the moral hazard suspicions.

Now compare this system with the crude methods of the fathers. In the early fifties it happened that some of the old fashioned local companies employed a single inspector and occasionally one solicitor who worked for three or four companies. These men were the forerunners of the present brokers. They came to be employed for all manner of outdoor work but chiefly inspecting and soliciting. Some of these names are mentioned and among them we occasionally hear of some who did effective service in adjustments for their own office. They obtained the

service of builders on building losses, and merchandise experts to appraise losses on stock but the work was never brought to the conditions now employed. Out of this crude method gradually came an advanced step in calling the interested companies together after a loss and appointing a Committee to adjust it. These meetings were somewhat a result of the Chicago fire adjustments. They continued for many years and even up to the time when the Loss Committee was proposed. They were seldom unanimous and frequently the results were unsatisfactory to the majority of those interested. The Committee usually levied an assessment for their own services and if there were any proceeds or salvage the Committee deducted the amount of the assessment without much ceremony. Of course this practice led to considerable criticism which increased when the position taken by the Committee was that it was their right, and because the amounts contributed by each interested Company were small, no complaints were made. Still the suspicion got abroad that it was arbitrary and that a few persons whose names appeared too often as adjusters were getting rich on the spoils. The routine of this crude method was the simplest imaginable. An agency became somewhat conspicuous in the early seventies for managing the meetings of the companies upon losses on the basis of a political caucus. The senior partner had an amiable way of calling on the offices before the hour of the meeting and proposing himself or one of his chums as chairman, and as the inevitable plan was to allow the chairman to nominate the Committee, it followed as a matter of course that the favorites were chosen. Nobody ever openly charged that there was any graft in this proceeding but it was criticised very freely. A few years later a shrewd gentleman with a suspicious name who was engaged in salvage operations as already stated is said to have retired with a large fortune and many underwriters were criticised for the tenacity with which they adhered to his services and insisted upon his assistance in settling the simplest losses. I have a personal recollection of a loss on a neckwear factory in this city, in 1878, where the only salvage was a few pieces of silk in a corner of the second story. It cut no figure in an otherwise conceded total loss. The value of the silk in the books of the firm was about $750.00 and the assured had no objection to any appraisement the companies desired to place upon it. An adjuster who was influential appeared on the scene and insisted that the salvage man should be allowed to take the remainder of the silk for $50.00 and because some other objected, the adjustment was hung up for three weeks, the assured having meanwhile advised

the companies that they were willing to accept $50.00 to expedite the settlement. It was a matter in which companies had pracically no interest and they simply awaited events. The silk was finally sold for $100.00 to the salvage man who put it through reconditioning process and sold it at auction for $500.00. There was a private scandal about it but it never came to anything further. This case is referred to now as a specimen of the lax way in which such matters were carried on. This will never occur again. This incident is forgotten by nine-tenths of those who were aware of it.

I remember being called to Nashville, Tenn. some years ago to visit a local agency. On my arrival at the Maxwell House I was surprised to meet fifteen or twenty special agents (many of whom I knew very well) and whom I found out afterwards were engaged in adjusting a loss on merchandise. Late in the same afternoon, I called around the lobby of the hotel and was invited to a room where two-thirds of the special agents were engaged in a very interesting game of draw poker. I was invited to participate but respectfully declined though I stayed in the room long enough to see that their interest in the game was very great and the stakes considerable. In the evening I asked one of them why they were not engaged in the adjustment in the day. Then I learned that two men of the whole number were doing the work while the others were engaged in the gentlemen's game before mentioned. I happen to know of a similar incident in the City of New York where a number of special agents from companies outside, came here in 1880 to assist the local representatives in adjusting a loss and spent most their entire time in the room of a hotel playing the game. You may imagine that this was not in accordance with sound business principles, but it was the old way.

In 1876 there was a very destructive fire in this city involving insurance on buildings and contents in 444 to 452 Broadway, to the amount of $3,418,099 which was finally adjusted for $1,751.-135. There were six firms burned out and the companies on buildings each carried from $100,000 down. The stock lines in this loss averaged less than $5,000. In bringing out the history of this loss I have learned that twenty-eight adjusters were employed in this settlement. I haven't the least doubt that in our day six adjusters could have handled all the losses to better advantage (particularly in the salvage) than the twenty-eight, thirty-nine years ago.

In March, 1877, the famous Bond Street fire occurred in an omnibus building Nos. 1, 3 and 5. It was occupied largely by

jewelers, watch makers, agents and the Gorham Manufacturing Co. The chief values were contained in thirty-two iron safes which footed up in the final proof at $786,000 upon which there was an insurance of $427,000 which was 54 per cent. of the value. The loss was settled at $267,298 or about 62 per cent. which throws a side light on the value of the 80 per cent. clause now used. It is stated that forty adjusters and appraisers were employed in the settlement, representing ninety companies insuring twenty-nine firms or interests. But at the present time five adjusters or at the utmost ten, could have settled all these losses much quicker and with more satisfaction than the forty who were used in 1877. The history of this loss and the settlement reveals that there was unnecessary friction and useless delay.

In January, 1878, there were two important losses within a few days of each other. The first was on the N. E. corner of Broadway and Grand Street, occupied by Howard Sanger & Co., Naunberg, Krause & Lauer and Edwin Bates & Co., with insurance on building and contents of $2,130,000. It was settled for $1,321,-973. Each firm's insurance was separately adjusted and twelve adjusters employed. In our day, three men have handled larger losses with equal satisfaction to the companies. A week later a fire occurred in the heart of the dry goods district on Worth and Thomas Streets, within a few doors of Church Street. The buildings for a half block were damaged more or less and three very seriously. The total insurance on buildings and contents was $7,253,296. On this occasion dry goods in packages proved their superiority as a fire risk over millinery and fancy goods. The final adjustment showed a loss to the companies of $1,976,734. There were twenty-nine separate interests and while there is no record of the number of adjusters, a careful comparison of the amounts of the proofs filed shows that at least twenty were employed in settling the loss. An official who participated in the loss told me there was "a small army of them."

These are examples of the way large losses were adjusted. The opportunity for differences between adjusters and owners were more conspicuous in the small losses but as the business progressed and the companies began to take a keener interest in details of adjustments and in the skill and ability of their own adjusters, it began to impress itself upon the officials of companies that there was room for improvement in methods. At the same time the necessity of closer coöperation was more and more apparent and many companies organized loss departments and employed competent men at their head. In others not so highly

organized, certain preferred adjusters were employed and that is the only practice which has continued to this day. It took a long time to root out the practice of levying an assessment on the companies or deducting it from the salvage. The companies objected to this system and although it died hard it was killed finally early in the eighties.

The appearance of public adjusters was in the late eighties and forms a distinct chapter by itself. Some of these men were reputable and some otherwise. One of the pioneers who long since departed this life, obtained considerable credit with the companies as an accountant and it was in this capacity he first turned up in adjustments. He was credited with serving both the companies and the assured, ably in compromising difficult cases. He was very fair to the companies and no doubt promoted an era of good will which might have continued longer if he had lived. The opportunity for collecting large fees for assisting the assured in effecting settlements offered strong temptations to others less scrupulous and in a few years the ranks of public adjusters were swollen to unwieldy proportions. The scandal began when these men got their jobs by giving the assured bad advice. The Loss Committee took cognizance of this evil from its early organization but it was powerless to prevent its growth. In the report read to the Board in 1910, the following reference to the public adjusters may prove interesting:

> "In the Metropolitan District there are about twenty firms—individuals or partnerships—regularly engaged in the adjustment of fire claims for the public, employing considerably more than one hundred persons as clerks, solicitors, inventory-takers, etc. A few of these concerns confine their operations to Brooklyn, but most of them handle losses throughout the territory of the Exchange, and even outside of it. Of the entire number, not more than six have any considerable proportion of high grade people among their clients. Some rarely get any but household furniture and small retail stock losses to handle. Excepting the small losses picked up by night-hawk solicitors —(and not excepting all of them) the public adjuster's business comes to him almost wholly through arrangements with certain brokers, with whom he divides (for the most part equally) the commissions he receives for the adjustments. Ordinarily the insured is ignorant of this arrangement, and the majority would be greatly astonished to know that the broker's motive in sending such losses to a particular public adjuster is mainly or wholly mercenary. Occasionally a public adjuster whose general run of business is notoriously bad forms a partial alliance with a few

brokers of high repute, and, as these brokers ought not to be ignorant of the man's record, it is a natural inference that extra inducements have been offered them in such cases. These standing arrangements with brokers are at the bottom of much of the evil in the business. On the one hand, a public adjuster cannot well refuse to handle a claim coming to him through a regular broker-ally, even if the fire looks "queer" or the claimant has eccentric ideas as to the making up of a claim. On the other hand, the reduction of net income entailed by the double necessity of meeting competitive offers from rivals and giving away half the price at which the adjustment is finally secured, forces himself to adopt all kinds of devices and practices to get his original contract price increased. Often, when he thinks the claimant will not object, he intimates that money may be useful to quiet the doubts of the company's adjuster, or to facilitate the passage of the proofs of loss through some company's Loss Department. Sometimes, he merely exaggerates the difficulties he has encountered, and the value of the additional and unforeseen services required of him. Sometimes he makes a new arrangement for an additional compensation conditional upon the collection of an amount in excess of the minimum sum which his client would accept as satisfactory. But, whatever the method followed, he is constantly on the alert to increase his compensation above the agreed figure, and this is a condition which obstructs an honest handling of losses. Many public adjusters freely declare that they could not continue in business if they were in all cases limited to the commission originally agreed upon. That commission itself, while supposed to be ordinarily in the neighborhood of 5 per cent., is sometimes 1 per cent. or even less; sometimes 10 per cent. or even more, according to the exigencies of the case, the character of the competition, the ignorance of the insured, etc.

Not all of the fraudulent tricks used in such adjustments are known at the time to the head of the public adjusting firm. Sometimes an inventory-taker persuades a claimant that great things can be done by bribing a Patrol watchman to allow the appearance of damage to be increased. If he gets money for this purpose, he will pretty surely keep part—or all—of it himself, even if he succeeds in carrying out the expressed object of the deal.

The Committee has from the beginning done what it could by its conduct of each separate adjustment to penalize, directly and indirectly, the mishandling of claims for public adjusters and their activity in behalf of fraudulent claimants. One public adjusting firm retired from business after the finding of an indictment against one of its members for the submission of false proofs of loss. In each of two separate cases it has cost a prominent public

adjuster (not the same one) nearly or quite $15,000 because his name was identified with wrongful transactions in connection with a loss or loss adjustment in which this Committee was interested. In very many cases public adjusters have withdrawn from adjustments because unwilling to incur the Committee's disapproval of remaining in them longer—in one case after first discharging an employee shown to have been guilty of fraud and misconduct. In this way, without the exercise of an oppression or abuse of authority by the Committee, a very general wariness as to wrong doing in adjustments has been created, to the advantage of underwriters and the public at large. It is doubtful, for example, if any public adjuster in New York would have had the courage to "stand for" the gross overstatement of values submitted in connection with an important Committee adjustment during the past year by a well-known broker. Doubtless the known preservation of full records of the Committee's adjustments, with their eloquent memoranda of all kinds of misbehavior, has had an important influence in bringing about an improvement. Many of the lower grade of public adjusters seldom have a "Committee loss" to adjust, and others of them are being taught to avoid that class of business, or to handle it with great caution."

It has been publicly charged for a great many years that adjusters have been hard-hearted, grasping and insistent upon the companies obtaining settlements to which they were not entitled. This general statement has been accepted as true by a large number of people and the moment the good faith of an adjuster is mentioned, it is met by denials. I am reminded of a conversation with a gentleman, whom I knew when I was in the business in the West, and who has gone to his fathers long since. He had been secretary of a local company which retired from business, and took up adjusting. In a conversation with him about one year after he had entered this business, he stated to me that he had always heard that adjusters were sharks and tricksters and when he entered his career as an adjuster, he thought he would try to do something to avoid such a reputation. After one year's experience he had come to the conclusion that for a man to do justice to the companies and the assured, he was bound to get the reputation of being tricky to the assured or over zealous for his company. He said that in his younger days when he went to Sunday School he was very much impressed by the story of Moses and Pharaoh and particularly struck by a sentence which appeared in the account in which it said that "The Lord hardened Pharaoh's heart." That puzzled him very much in his younger days but he said now he was able to explain it. The Lord made

Pharaoh an adjuster to the Israelties and the hardening of the heart came soon after.

I leave you to make the application to present conditions.

Up to the year 1871 no such organization for the adjustment of actual losses had ever occurred as appeared in the adjustment of the Chicago conflagration loss. In that case the adjusters engaged a hall and instituted a sort of clearing house system by which claimants were to present their claims to the adjusters representing the companies and then the matter was taken up and each loss settled on what seemed to be its merits. There was some friction and some delays but generally the losses were settled promptly. The usual experience of claimants taking not only the last pound of flesh but several more pounds in addition, was developed in this long settlement. It is not surprising that when the losses were all settled the adjusters held a sort of jollification meeting and agreed among themselves to provide gold badges in honor of their services in this adjustment. When the question came of a suitable inscription on the badge it was finally agreed that it should be "SOC-ET-TU-UM" and these badges are held in very great esteem by those that have succeeded in the work of the Chicago adjusters. This has nothing to do with ancient or modern practices but it has a great deal to do with the human nature which was the same in 1871 as it is in 1915. Notwithstanding all the criticisms over the Chicago adjustments I have never heard of a single instance where the integrity of the adjusters was in question.

The mention of the Chicago conflagration adjustment reminds me of San Francisco in 1906. I was in that city a few months after the great conflagration and many of the adjustments were still incomplete. I heard all kinds of stories about the experience of adjusters. I made up my mind however, that there was not much chance of the motto of "SOC-ET-TU-UM" ever being used on the San Francisco badges. I cannot resist the temptation to mention one instance to illustrate the leniency of the San Francisco adjuster.

It is related that one day a Chinaman entered the room where the adjusters were all stationed at separate tables and presented a policy so that the doorkeeper directed him to the adjuster representative. When he came to the latter, the Chinaman held up his policy and the adjuster supposed that he came to claim a loss and began to talk about "six bits," meaning 75 cents on the dollar. The Chinaman answered "How much money?" which was almost the extent of his English on the occasion. The adjuster took the

policy and found that it was upon a store and fixtures located in the burnt district and from general observation he was satisfied that there was no salvage inside so he figured out how much loss he was willing to allow on the policy at 75 cents on the dollar. When he mentioned the sum to the Chinaman he said "Allee samee Melican man"? The adjuster assured him that those were the terms on which they settled all American losses. "Allee Rightee" and before he left the room, the Chinaman had the draft in his possession and the company had taken a receipt and a blank which was witnessed by another adjuster.

You may imagine the chagrin of this easy going adjuster when he learned three days after that there was no property in the store and that the Chinaman had come to the office to cancel his policy and get a return premium. He had been advised to do this by a broker but the prospects of collecting 75 cents on the dollar was evidently too much a temptation for the Chinaman and he probably left well satisfied over his success.

There was not much of the "SOC-ET-TU-UM" practice on this occasion save as to the company concerned. I cannot vouch for the truth of this story but it was repeated to me so many times I had to accept it as probably if not literally true.

At the present time there is a marked improvement in the conditions. Public adjusters have been charged with complicity with the work of an incendiary and one of the most brazen of the lot (who had the audacity to hire an office in the Underwriters Building) has been convicted of fraud and sent to the State Prison. Others have ceased their tricks and some who are under suspicion have repented and reformed. The State Insurance Department has obtained legislation requiring them to secure licenses and borne down heavily upon the doubtful ones and insisted on explicit answers to soul-racking questions being given for information to the Department. In some cases the Department has withheld the license to applicants and I think refused several of them. The result has been to lessen the evil which is another evidence of the difference in present and former methods of adjustment. I might probably add—in the quality of the public adjusters too.

I cannot forbear saying that the companies are well satisfied with the changes in adjusting within the last twelve years. There is a wide open chance for a larger use of the moral hazard information in the hands of the Loss Committee and the knowledge gained by adjusters in tracing the origin of fires is materially assisted by the information taken from the files of losses now in

our possession. Neither the National Board nor any private agency can ever hope to gather a tithe of the data equal in value to that now in our hands.

Whether the old methods should be preferred to the new methods of adjustment must be judged by the fact that nobody has ever proposed to exchange the new for return of the old. "By their fruits ye shall know them" was given as sound advice 1900 years ago and it still holds good in judging adjustment methods, both old and new.

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